

BZA 37-72 - Davis-Moore Olds re-
quests exception to permit new
and used car and recreational
vehicle sales at the southwest
corner of Kellogg & Courtleigh

ACTION

B2A COMMITTEE deny DATE Jan. 23, 1973
~~APPROVE~~ APPROVE Feb. 27, 1973
~~BZA 37-72~~ _____

Original file destroyed - See memo 7/22/74
JHS

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE

July 22, 1974

TO The File
FROM Jack H. Galbraith, Chief Planner *JHG*
SUBJECT BZA 37-72

On Wednesday July 17, 1974, BZA case file 37-72 was accidentally thrown away in the trash. An attempt has been made to reconstruct the file and the following items have been included:

- 1) BZA minutes of January 23 and February 27, 1973.
- 2) A copy of the signed resolution on BZA 37-72.
- 3) Three letters dated January 24, February 28, and March 22, 1973 which were sent to the applicant's attorney, Everett Fettis.
- 4) A copy of the plat plan submitted with BZA 37-72.

Some items previously found in the file were not available elsewhere and remain missing from the reconstructed file of BZA 37-72. These items are:

- 1) Copies of the application.
- 2) Notice to adjoining property owners.
- 3) Abstract ownership list.
- 4) Letters of opposition (if any).
- 5) Correspondence from the applicant (if any).

JHG:MM:rme

March 22, 1973

Mr. Everett C. Feltis
Suite 304 - 120 S. Market
Wichita, Kansas 67202

Subject: Case No. DCA 37-72 - Request for Exception

Dear Mr. Feltis:

Enclosed is a signed copy of the Resolution adopted by the Board of Hearing Appeals on February 27, 1973, in connection with your request for permitting the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "1C" Light Commercial District, and generally located on the Southwest corner of Kellogg and Courtleigh.

This Resolution reflects the official action of the Board to approve your request and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office.

Very truly yours,

Jack H. Calbraith
Jack H. Calbraith
Secretary

JHC:rw
enclosure

cc: Davis-Moore Chevrolet, Inc.
C. W. "Gene" Klein, 6215 East Kellogg, 67218
Mr. and Mrs. David G. Stuart, 415 S. Rockside, 67218
Mr. Royce M. Clark, 450 Waverly, 67215
Mr. Gerald Edwards, 455 Courtleigh, 67219
Mr. Paul W. Shewach, 1700 N. Gentry, 67206
Robert Walker, Supt. of Central Inspection
✓ Edith Sherry, City Clerk
Joe Donnelly, Central Inspection

RESOLUTION NO. BEA 37-7

WHEREAS, Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, Wichita, Kansas, 67218, requests an exception to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, and legally described as follows:

The East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the Southwest corner of Kellogg and Courtleigh.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did at the meeting of January 23, 1973, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita; and

WHEREAS, the action of the Board was to deny the application; and

WHEREAS, an amended application deleting new and used cars and boats, and limiting the request to recreational vehicles including only motor homes and travel trailers, and a request for rehearing were filed as provided by Article VIII of the Rules and Regulations of the Board of Zoning Appeals; and

WHEREAS, it was the determination of the Secretary that the evidence submitted by the applicant was sufficient to warrant a new hearing; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of February 27, 1973, reconsider said application;

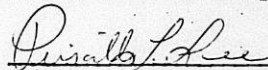
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the sales and service of recreational vehicles such as motor homes and travel trailers on property zoned the "LC" Light Commercial District and legally described as follows:

The lot 125 feet of the North 70 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Kellogg and Courtleigh.

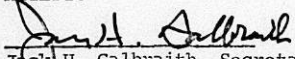
subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No sound projecting devices or loudspeakers shall be used.
5. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
6. The sales and service of recreational vehicles such as motor homes and travel trailers shall not be conducted in addition to any other use (example: the sale of recreational vehicles on the same lot with a service station, garage, restaurant, etc.). However, minor repair work on those vehicles for sale may be conducted within an enclosed building provided that no body or fender work is done.
7. No building shall be placed closer than 35 feet to the East property line.
8. The outside display of vehicles in front of the building shall be limited to four.

ADOPTED AT WICHITA, KANSAS, this 27th day of February, 1973.


Priscilla L. Lee, Chairman

ATTEST:


Jack H. Galbraith, Secretary

February 26, 1973

Mr. Everett C. Fottis
Suite 204 - 120 S. Market
Wichita, Kansas 67202

Subject: Case No. BSA 37-72 - Request for Exception

Dear Mr. Fottis:

At the regular meeting of the Board of Zoning Appeals on February 27, 1973, your request for an exception to permit the sales and service of recreational vehicles such as motor homes and travel trailers on property zoned the "M-1" Light Commercial District, and generally located South of Kellogg West of Courtleigh Drive, was reconsidered.

It was the action of the Board to approve this request subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No sound projecting devices or loudspeakers shall be used.
5. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.

Mr. Everett C. Fottis
Page 2

6. The sales and service of recreational vehicles such as motor homes and travel trailers shall not be conducted in addition to any other use (example: the sale of recreational vehicles on the same lot with a service station, garage, restaurant, etc.). However, minor repair work on these vehicles for sale may be conducted within an enclosed building provided that no body or fender work is done.
7. No building shall be placed closer than 25 feet to the East property line.
8. The outside display of vehicles in front of the building shall be limited to four.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,



Jack H. Callsmith
Secretary

JHM:rw

cc: Lewis-Moore Automobile, Inc.
C. W. "Totz" Klein, 6215 East Kellogg, 67219
Mr. and Mrs. David G. Stuart, 416 S. Brookside, 67218
Mr. Layman L. Clark, 440 Waverly, 67219
Mr. Gerald Edwards, 435 Courtleigh, 67218
Mr. Paul V. Shumack, 1769 N. Conroy, 67209
Robert Feldner, Superintendent of Central Inspection
✓ Ralph Sharly, City Clerk
Joe Jannolly, Central Inspection

BOARD OF ZONING APPEALS

MINUTES

FEBRUARY 27, 1973

The regular meeting of the Board of Zoning Appeals was held on Tuesday, February 27, 1973, at 1:30 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas. The following members were present: PRISCILLA L. LEE, Chairman; MARJORIE TAYLOR, KENNETH CUSICK, JAMES RICHARDSON, and EUGENE PIRTLE, Assistant City Attorney. Also present were JACK H. GALBRAITH, Secretary; MARTHA McMURRY, Assistant Secretary, and RHONDDA WAGNER, Planning Department Secretary. CHAIRMAN LEE presided.

1. Consideration of DR 72-22 - Amendment to the Zoning Ordinance, RE: Residential Storage Warehouses. LEE recommended that the review of this Amendment be deferred to the last item on the agenda. CUSICK moved to defer the item to the last, it was seconded and carried unanimously.
2. Request from Ken Cusick RE: Consideration of a BZA case on property for which a zone change has been requested prior to action by the Planning Commission and City Commission.

An example of a situation of this kind is zone case Z-1454 and associated BZA Case No. 29-72, Curry's Animal Hospital. This zone case was deferred at the Commission level after the request for an exception had been heard and approved by the BZA.

CUSICK questioned whether or not it was legal to consider cases on which the zoning had not yet been granted. GALBRAITH stated that when the request for BZA hearing is advertised, the zone change being requested is mentioned. TAYLOR asked if there had ever been a zoning case approved subject to platting that had been rejected because the plat had not been approved. GALBRAITH said that he could not recall such a case. EUGENE PIRTLE, Law Department, stated that the BZA ordinance established jurisdiction for: 1. Appeal of certain decisions of the Superintendent of Central Inspection; 2. Variance from the zoning ordinance, which sets out conditions which must be met; and 3. Exception to the zoning ordinance, setting out certain conditions of approval. He stated that the BZA had no authority to approve a BZA exception or variance in a zone that is not in existence. While it may cause a hardship on the applicant, a revision of statutory authority would be needed to allow that type of consideration. In other words,

what the Board would be doing is considering an application on a zone that is not legally in existence.

MOTION: CUSICK moved and LEE seconded that the Board amend the existing rules to specify that the BZA will not advertise or hear a case unless the necessary zone change has already become effective. The motion carried unanimously.

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3. Case No. BZA 37-72 - Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, 67218, requests a rehearing of an application amended to request an exception to permit the installation or construction of an agency for the sales and service of recreational vehicles such as motor homes and camping trailers on property zoned the "LC" Light Commercial District, and legally described as the East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition. Generally located on the Southwest corner of Kellogg and Courtleigh.

GALBRAITH pointed out the area on the map and reviewed the following Secretary's Report:

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2 can be complied with.

COMMENTS BY THE SECRETARY:

On January 23, 1973, the Board of Zoning Appeals denied a request for an exception to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on subject property. In accordance with Article VIII of the Rules and Regulations of the Board of Zoning Appeals, an amended application and a request for rehearing were filed.

The applicant now requests an exception to permit the sales and service of recreational vehicles such as motor homes and camping trailers in conjunction with Davis-Moore Oldsmobile, Inc. Although, in the opinion of the Secretary, the Board specifically objected to the larger vehicles, the amended application does delete new and used cars and boats and limits the definition of recreational vehicles to include only motor homes and travel trailers. Based on this new information, it was the determination of the Secretary that such evidence was sufficient to warrant a new hearing.

In his statement of justification, the applicant points out that Davis-Moore Oldsmobile, Inc. has been granted the franchise for Recreational Vehicles, a new division of General Motors, and he expects this division of the company to expand, making additional sales and storage area necessary. On August 23, 1968, the Board of Zoning Appeals considered and approved a request by the applicant to grant an exception for additional sales and storage for new and used cars for property to the South (BZA Case No. 12-68). On August 22, 1972, the Board of Zoning Appeals granted another request by the applicant for sales storage of new and used cars for property directly to the South of the subject area (BZA Case No. 20-72). The Traffic Engineering Division has approved the plot plan submitted by the applicant.

RECOMMENDATION:

In the event that the Board determines this is an appropriate use, it is recommended that approval be subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No sound projecting devices or loudspeakers shall be used (so as to be heard outside any structure).
5. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
6. The sales and service of recreational vehicles such as motor homes and travel trailers shall not be conducted in addition to any other use (example: the sale of recreational vehicles on the same lot with a service station, garage, restaurant, etc.). However, minor repair work on those vehicles for sale may be conducted within an enclosed building provided that no body or fender work is done.
7. No building shall be placed closer than 35 feet to the East property line.

EVERETT FETTIS, attorney for the applicant, spoke. He said that the request was for a broader range of uses at the previous

hearing and because of this he understood the concern of the neighbors. He said that there is some confusion as to what is meant by motor homes and travel trailers. He said that historically, trailers are usually unattractive. He pointed out that what they sell are called motor homes and there is a considerable difference. He distributed pictures of typical motor homes that will be sold by the applicant if the exception is granted. He stated that he didn't think they would be troublesome to the neighbors. He stated that persons on the north side of Kellogg signed protests because they thought the zoning was being changed to heavy commercial. Last month, they spoke rather strongly against Davis-Moore, due to the noise, etc. He stated that he considers the Davis-Moore operation an improvement over the present use of a Kau-Kau Beef restaurant which will be closed. He stated that if they do not use the property, the possibilities are: 1. Drive-in hamburger operation; 2. Tavern; 3. Private club, etc. He felt the neighbors should be aware of the other potential uses. He pointed out that the volume of traffic would be reduced with the Davis-Moore operation. The sale of motor homes or travel trailers does not attract a widespread, but limited clientele because of the expense. The volume of traffic will be sharply reduced with Davis-Moore compared to what it would be if McDonald's or such would occupy the area. He stated that he had received a letter from a neighbor to the south and that that neighbor is proud of his yard. This neighbor stated that debris blows into his yard from the drive-in food operation, and Davis-Moore would be an improvement on this. FETTIS stated that Davis-Moore is consistent with the general area up and down Kellogg. It is basically a day time operation and Davis-Moore would be less distracting than a private club or the like.

MR. SHREVE, 6203 Eilerts, spoke. He stated that the existing operation is not very successful. He stated that if the Davis-Moore operation is approved that traffic would be lessened, and trash and dirt would be less under this proposed use. Hours will be better than the other possible or likely uses.

FETTIS stated that the customers that Davis-Moore will have will be affluent as the homes and trailers are in the \$20,000 to \$30,000 range. They are a more quiet and subdued clientele. He stated that the Davis-Moore operation would help the current situation. He admitted that they had had loudspeakers in the past, but assured the Board it would not exist on this proposed location. He showed the architect's drawing to the Board, and

stated that Davis-Moore would be using the existing Kau Kau building. There is room at the front of the lot for 4 or 5 trailers. He said that this area of Kellogg on the south side is occupied by basically commercial uses.

GALBRAITH cited the letter of Dr. Stuart's received this morning. LAYMAN L. CLARK, 460 Waverly Drive, stated that there were petitions from 91 people opposed to the request. He stated that the service station was there before the houses were built, and that it was not conforming. The Davis-Moore operation would certainly reduce the value of the property, he feels. He stated that this was a very good neighborhood and nice homes exist from Kellogg to Douglas. He felt that there would also be used trailer homes for sale and considers this undesirable. He stated that there are violations at the car wash; that the car wash does much of its service outside of the building and he understood these things should be done inside the building. There are violations with those operations and he feels there would be violations with Davis-Moore, too. He stated that cars stack up outside the service station, and there is sometimes a waiting line for the car wash. CUSICK asked if MR. CLARK felt that since Red Carpet car wash was installed the property values in the area had diminished. MR. CLARK stated that it certainly didn't help. CUSICK asked which of the three possible uses mentioned by MR. FETTIS would be worse for the area. MR. CLARK stated he didn't feel Davis-Moore would bother the area nearly as much as the other possible uses. CUSICK stated that as far as aesthetics, Davis-Moore would be no worse. He said that the current use is perhaps not warranted in the neighborhood. He stated that it was difficult to determine which is the lesser of two evils. GALBRAITH stated that Red Carpet car wash has drying spaces outside their building which is required by ordinance. CUSICK stated that he has spent much time in the area and that nothing could be more devaluating to the property than what already exists. TAYLOR stated that Village Addition is more oriented to the neighborhood to the North of Kellogg. TAYLOR stated that Kellogg seems to be the dividing point between communities. CLARK stated there were signs outside the service station and around the property in violation of the zoning ordinance.

PAUL SHOREACK, who owns 534-536 Courtleigh, stated that he was more directly effected by this proposal than any other property owner. He stated that at the present time, the noise and traffic are prohibitive and particularly the trash, and that people drive up on the curb and yard. He feels the proposal by Davis-Moore is much less objectionable than a drive-in food operation. CUSICK asked if Shoreack lived on the north of south side of Kellogg.

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February 27, 197

SHOREACK answered he lives on the south side. MRS. STUART, 446 S. Brookside, stated she lived in the closest house to the property. She said there wasn't much trash from the Kau-Kau Beef at this time. She stated that Davis-Moore was not a good neighbor; that in the past their speaker was loud and her husband asked them to turn it down but received no action until the police were notified.

JOSEPHINE OTT, stated that big trailers arrive at all hours and try to unload big cars. She stated that the trucks go up on the curb. She feels the proposed Davis-Moore use won't be of benefit to her. She pointed out that the STUARTS, CLARKS, and LEONA JOHNSON are all adjacent to the property on the north. They see Davis-Moore as soon as they step outside of their homes. She feels that the enclosed buildings are not too bad, but asked who would want to look at these operations when they opened their door. She stated she was appealing to the Board to protect their property.

CUSICK stated this was an unusual situation. He stated there was a division of uses between the north and south sides of Kellogg. He said that the problems the neighborhood fears already exist and traffic on Kellogg is heavy in this area. He stated that since a question arises as to a use of this type in the city limits, he thought the Board should establish restrictions to assure compliance with the ordinance, plus a restriction to the number of homes and trailers which could be displayed in front of the building. If the applicant were to have this case approved, Central Inspection could be contacted if stipulations are not adhered to.

FETTIS stated the applicant intended to have a limit of 5 parking stalls on the front portion of the property, and that they would be willing to abide by the Board's requirements. CUSICK asked if Davis-Moore would be willing to limit the types of travel trailers? FETTIS stated the trailers would be stored in the back. CUSICK stated he didn't know how FETTIS defined travel trailers, but he stated he defines them as something you can sleep in, eat in and cook in. FETTIS stated they were smaller. TAYLOR asked if there would be any paging (use of loud speakers). FETTIS stated not any more.

JERRY EDWARDS, 455 Courtleigh, spoke. He stated he owns a travel trailer. He feels that if this case is approved that there would be requests for the same type of exception all over

town. EDWARDS stated he lived across the street in the second house. He said he can hear loudspeakers over there, and that the petitions signed are from homes up to two blocks away.

MRS. OTTE, 6221 Eilerts, stated that she and her daughter live right on the corner, across from MRS. STUART. MR. CLARK is directly across from her. She stated she was representing people in that particular area. She said she had lived there since 1956. She is a long-time home owner and really proud of the location. She asked the members if they would want this use across from their homes.

FETTIS stated that there won't be any speakers at all in this location; that Kau Kau is gone, and Sandy's would be a likely business type to move in.

CUSICK asked how many vehicles are anticipated to be parked there at any one time? FETTIS stated that 5 in front and 10 to 15 in the rear is the expected number. CUSICK stated he didn't think that this exception would change the situation to any large degree with the existing problems on the south side of Kellogg.

CUSICK moved that the Board change condition #4 to read "No sound projecting devices or loudspeakers shall be used"; and limit the storage of vehicles to no more than 4 in front of the building. RICHARDSON seconded CUSICK'S motion. When the Board inquired about service or repair work on the premises FETTIS stated that light vehicle work would be done outside the facility. CUSICK asked what was meant by light vehicle work. PETE KLEIN, representing the applicant in this case, stated that getting them ready by washing them, etc., was light vehicle work.

MOTION: CUSICK moved and RICHARDSON seconded and it carried unanimously that the exception be approved subject to the 8 conditions with condition #4 changed as follows: "No sound projecting devices or loudspeakers shall be used", and the addition of condition #8, "The outside display of vehicles in front of the building shall be limited to four", as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 37-72

WHEREAS, Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, Wichita, Kansas, 67218, requests an exception to permit the installation or construction of an agency for the sale of new cars, used cars,

and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, and legally described as follows:

The East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the Southwest corner of Kellogg and Courtleigh.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did at the meeting of January 23, 1973, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita; and

WHEREAS, the action of the Board was to deny the application; and

WHEREAS, an amended application deleting new and used cars and boats, and limiting the request to recreational vehicles including only motor homes and travel trailers, and a request for rehearing were filed as provided by Article VIII of the Rules and Regulations of the Board of Zoning Appeals; and

WHEREAS, it was the determination of the Secretary that the evidence submitted by the applicant was sufficient to warrant a new hearing; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of February 27, 1973, reconsider said application;

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the sales and service of recreational vehicles such as motor homes and travel trailers on property zoned the "LC" Light Commercial District and legally described as follows:

The East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the Southwest corner of Kellogg and Courtleigh.

subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No sound projecting devices or loudspeakers shall be used.
5. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
6. The sales and service of recreational vehicles such as motor homes and travel trailers shall not be conducted in addition to any other use (example: the sale of recreational vehicles on the same lot with a service station, garage, restaurant, etc.). However, minor repair work on those vehicles for sale may be conducted within an enclosed building provided that no body or fender work is done.
7. No building shall be placed closer than 35 feet to the East property line.
8. The outside display of vehicles in front of the building shall be limited to four.

ADOPTED AT WICHITA, KANSAS, this 27th day of February, 1973.

S/S Priscilla L. Lee
Priscilla L. Lee, Chairman

ATTEST:

S/S Jack H. Galbraith
Jack H. Galbraith, Secretary

January 24, 1973

Mr. C. W. "Pete" Klein
6215 East Kellogg
Wichita, Kansas 67213

Subject: Case No. BZA 37-72 - Request for Exception

Dear Mr. Klein:

At the regular meeting of the Board of Zoning Appeals on January 23, 1973, your request for an exception to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including tents and camping trailers, on property zoned "LC" Light Commercial, and generally located South of Kellogg, West of Courtleigh Drive, was considered.

It was the action of the Board to deny this request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,

Jack H. Calbraith

Jack H. Calbraith
Secretary

JHM:DW

cc: Mr. David G. Stuart and Geraldine F. Stuart, 446 S. Brookside,
67213

Mr. Layman L. Clark, 460 Waverly Drive, 67213

Mr. Gerald Edwards, 455 Courtleigh Drive, 67213

Robert Waldner, Supt. of Central Inspection

Ralph Harty, City Clerk

Joe Donnelly, Central Inspection

S/S Jack H. Galbraith
Jack H. Galbraith
Secretary

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7. Case No. 37-72 - Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, 67218, pursuant to Section 2.12.590.C, Code of the City of Wichita requests an exception to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats, and camping trailers, on property zoned the "LC" Light Commercial district and legally described as the East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the Southwest corner of Kellogg and Courtleigh.

GALBRAITH pointed out the area on the map and reviewed the following Secretary's Report:

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to permit the expansion of their agency for the sale of new cars, used cars and recreational vehicles in conjunction with Davis-Moore Oldsmobile, Inc., 6215 East Kellogg.

In his statement of justification, the applicant points out that Davis-Moore Oldsmobile, Inc. has been granted the franchise for Recreational Vehicles, a new division of General Motors, and he expects this division of the company to expand, making additional sales and storage area necessary. On August 23, 1968, the Board of Zoning Appeals considered and approved a request by the applicant to grant an exception for additional sales and storage for property to the South (BZA Case No. 12-68). On August 22, 1972, the Board of Zoning Appeals granted a similar request by the applicant for property directly to the South of the subject area (BZA Case No. 20-72). Other requests of a similar nature have also been approved in the past in this general area along U.S. 54. The Traffic Engineering Division has approved the plot plan submitted by the applicant.

RECOMMENDATION:

It is the opinion of the Secretary that this is a logical extension of the existing new and used car sales and storage lots adjacent on the South and, therefore, it is recommended that this application be approved subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No sound projecting devices or loudspeakers shall be used (so as to be heard outside any structure).
5. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
6. The operation of the new and used car lot shall not be conducted in addition to any other use (example: the sale of cars and recreational vehicles on the same lot with a service station, garage, restaurant, etc.). However, minor repair work on those vehicles for sale may be conducted within an enclosed building provided that no body or fender work is done.
7. No building shall be placed closer than 35 feet to the East property line.

GALBRAITH stated that just this morning he had received a letter from Dr. David O. & Geraldine F. Stuart of 446 South Brookside voicing their objections to the requested exception and pointing out problems in the past with loud speakers.

"Pete" Klein, spokesman for the applicant stated that last summer they did have the PA system going and it could be heard in the surrounding area, but when they received

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a telephone complaint regarding it, they turned it off.

CUSICK asked where the closest place was where mobile homes sales and service are allowed. GALBRAITH said further East on Kellogg near Greenwich Road and on South Broadway.

LAYMAN L. CLARK, 460 Waverly Drive, spoke in opposition. He stated that the trees on the north side of U.S. 54 don't extend down to Waverly. He pointed out that the East Side National Bank is for sale if they need land which is a more appropriate location. He indicated the property could look like a circus at night. He stated that many of the landowners might like to have an exception for their property but it would set a precedent and reduce residential property values.

KLEIN stated it would not be economically feasible to buy the bank property for the motor home use. At present there is a Kau Kau Beef on subject property, and the area would be kept cleaner with motor homes.

GERALD EDWARDS, 455 Courtleigh Drive, 67218, spoke in opposition. He has lived in his present location since 1966. He mentioned that it would create a lot of traffic. There is congestion now in front of the dealership. The pine trees were put up by people in the Village, who maintain them and which screen the commercial uses from their view. He thought the Board should consider how much further into town dealers will be able to go with these vehicles.

KLEIN stated that the property was screened except for the car wash. The motor home allotment they receive from General Motors is only 50 vehicles a year.

CUSICK asked what the normal height of the vehicles was. KLEIN stated that it was 8 to 10 feet and is lower than a Winnebago.

CUSICK stated that the Board should view this case similar to the way we would view a mobile home sales lot or U-Haul trailer application and if we approve this one we would receive other applications from those who would feel the use is appropriate in this area of the City.

MOTION: CUSICK moved, RICHARDSON seconded and it carried unanimously that this exception be denied as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 37-72

WHEREAS, Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, 67218, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, and legally described as follows:

The East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the Southwest corner of Kellogg and Courtleigh.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of January 23, 1973, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, subject to the conditions outlined in Section 28.04.B3.2 Code of the City of Wichita.

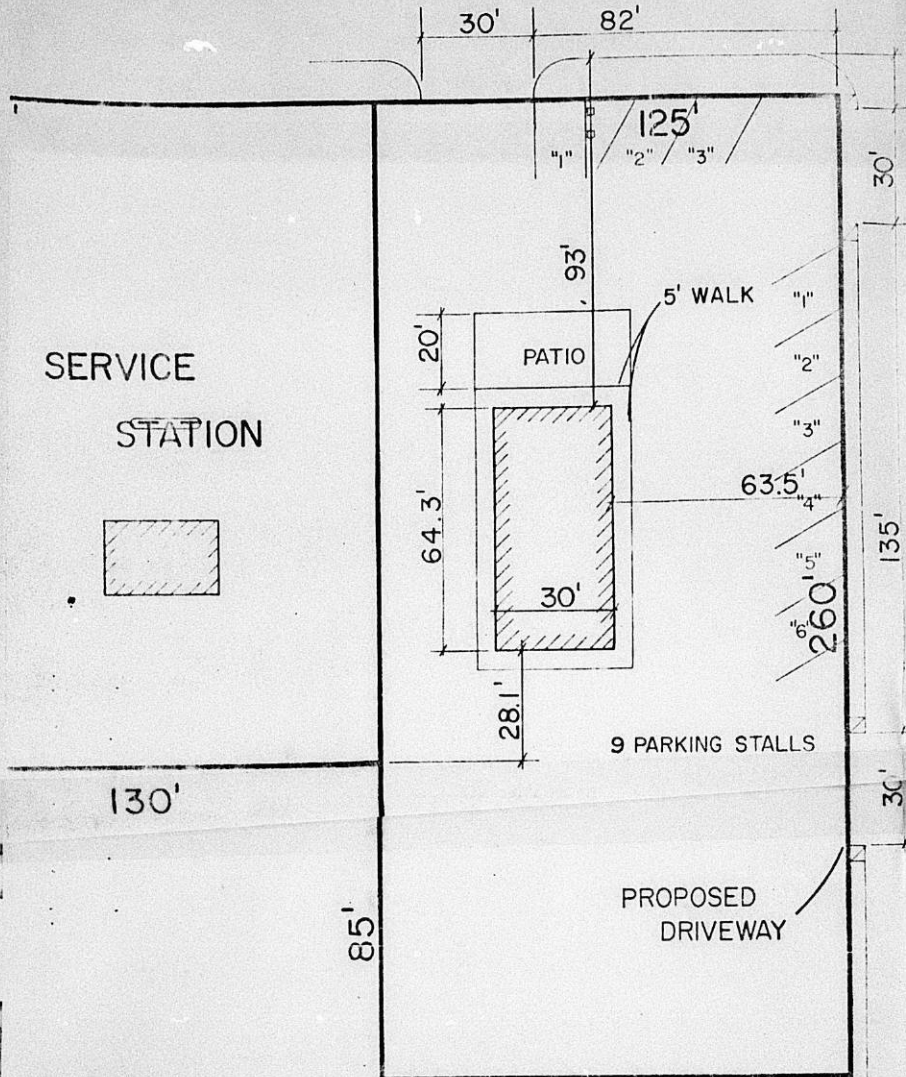
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be denied to permit the installation or construction of an agency for the sale of new cars, used cars, and recreational vehicles, including boats and camping trailers, on property zoned the "LC" Light Commercial District, and legally described as follows:

The East 125 feet of the North 260 feet of Lot 1, in Universal's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the Southwest corner of Kellogg and Courtleigh.

ADOPTED AT WICHITA, KANSAS, this 23rd day of January, 1973.

KELLOGG

DR.



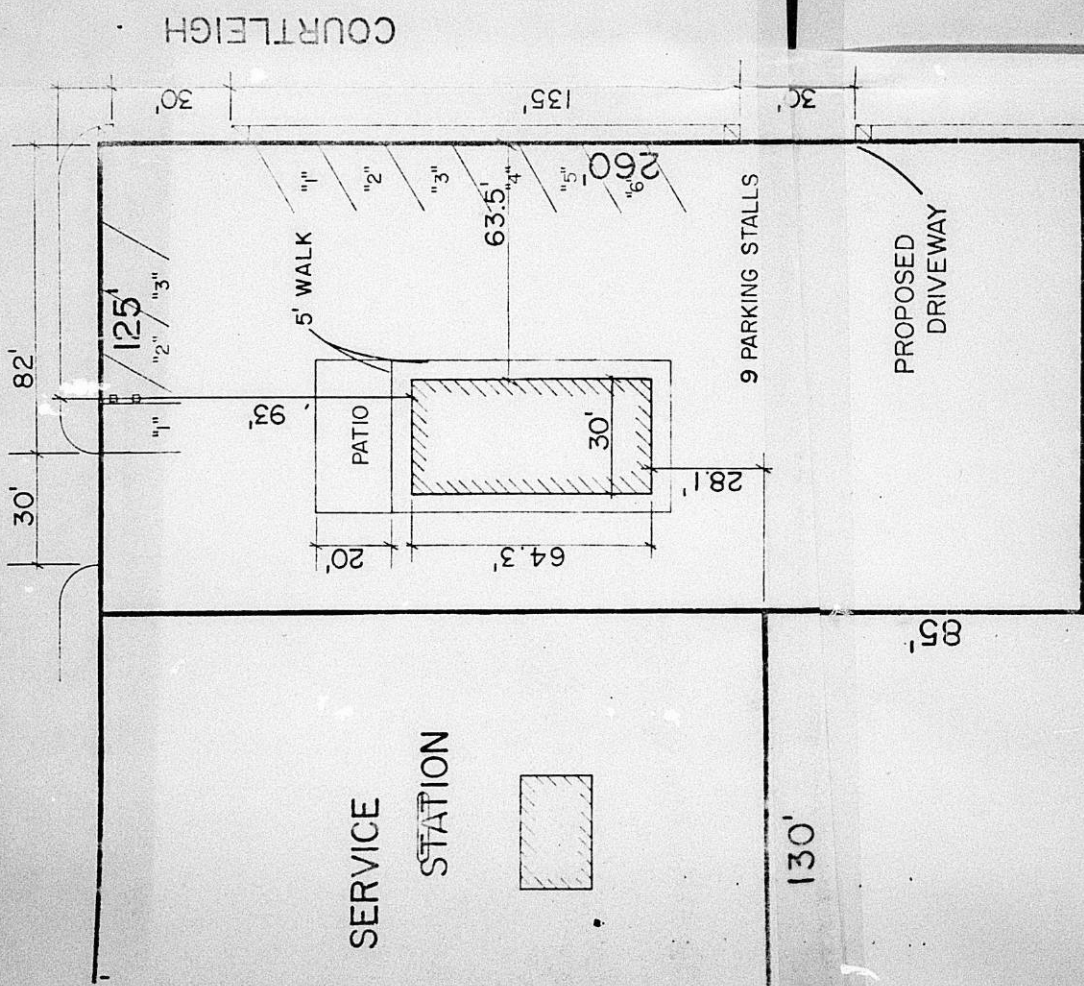
COURTLEIGH

TRAFFIC ENGINEERING DIVISION APPROVED
[Signature]
 Date: 4 APRIL 1973
 (A) Parking barriers shall be installed at all locations that are adjacent to public property (so that vehicles will not obstruct public property) and have a minimum length of 6 feet and a minimum cross section of 4" x 4". BZA-37-72
 (B) Stall lines shall be painted and 4" or greater in width.
 (C) Proper ingress and egress signs shall be installed on private property at the entrances and exits of the parking facility.

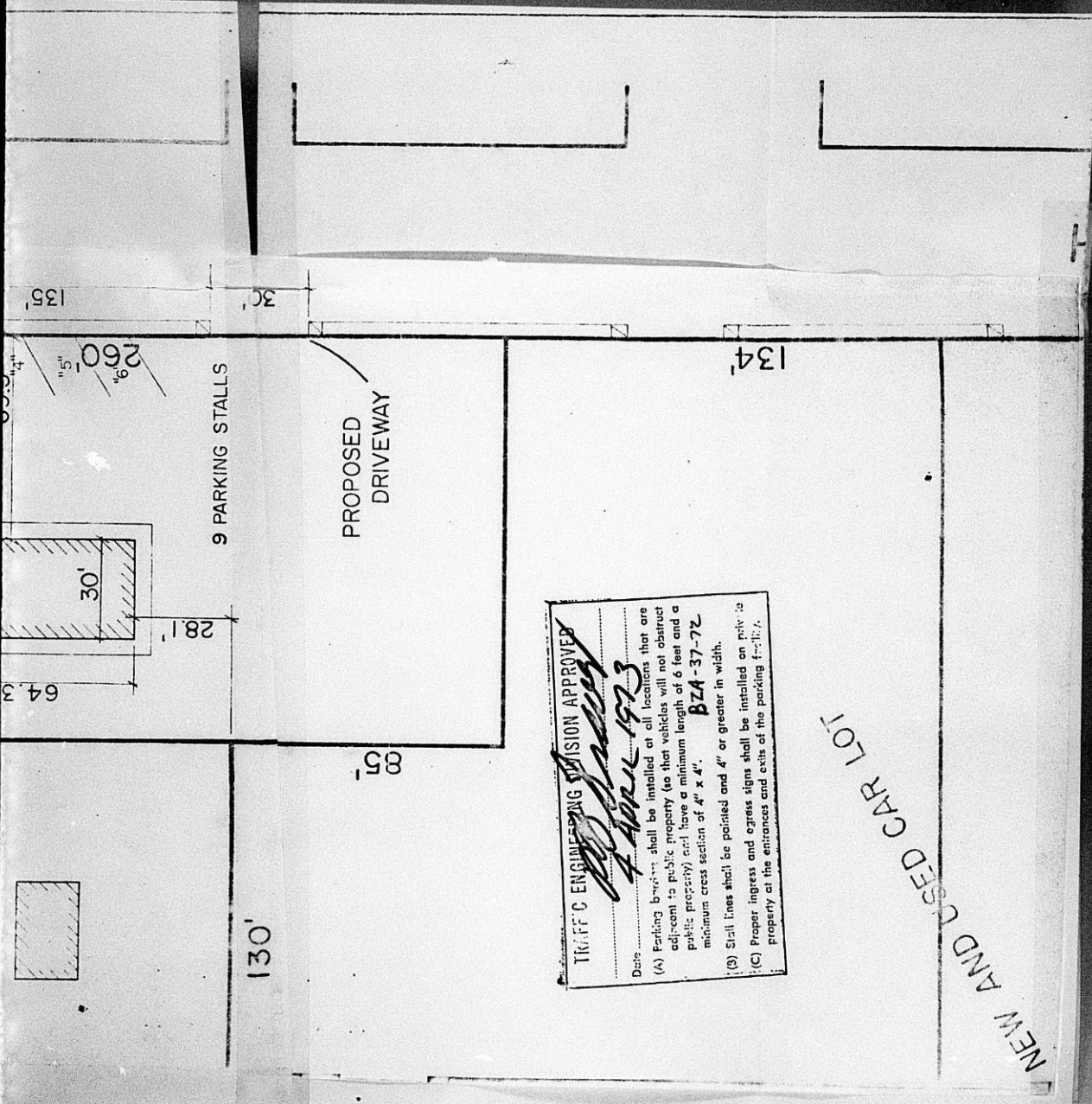
NEW AND USED CAR LOT

KELLOGG

DR.



TRAFFIC ENGINEERING DIVISION APPROVED
[Signature]



TRIFF C ENGINEERING DIVISION APPROVED
[Signature]
 7 APRIL 1973

Date's shall be installed at all locations that are adjacent to public property (so that vehicles will not obstruct public property) and have a minimum length of 6 feet and a minimum cross section of 4" x 4".

(B) Stall lines shall be painted and 4" or greater in width.

(C) Proper ingress and egress signs shall be installed on every property at the entrances and exits of the parking facility.

NEW AND USED CAR LOT